

July 10, 2007

In the matter of
Pacific Minerals
Bridger Underground Coal Mine
I.D. No. 48-01646

Petition for Modification

Docket No. M-2006-004-C

PROPOSED DECISION AND ORDER

On January 17, 2006, a petition was filed seeking a modification of the application of 30 CFR 75.1902(c)(2)(i)-(iii) at Pacific Minerals' Bridger Coal Underground Mine (Bridger Mine), located in Sweetwater County, Wyoming. The Petitioner alleges that the alternative method outlined in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendations with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report and recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The alternative method proposed by the Petitioner (as amended by the recommendations of MSHA) will not at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1902(c)(2)(i)-(iii). This safety standard requires that the temporary underground diesel fuel storage area must be located--

- (i) Within 500 feet of the loading point;
- (ii) Within 500 feet of the projected loading point where equipment is being installed; or
- (iii) Within 500 feet of the last loading point where equipment is being removed.

Section 75.1902 provides general requirements for the safe underground storage of diesel fuel, a combustible. This

standard is intended to minimize the risks associated with fire hazards in the areas where the diesel fuel is stored. The standard established 500 feet from the loading point as the maximum distance from which miners would be able to observe and correct a fire hazard. Maintaining the temporary underground diesel fuel storage tanks within 500 feet of the section loading point is intended to assure that the tanks are located close enough to miners so that any hazards that develop can be addressed promptly. Within a distance of 500 feet, miners are able to react quickly to control spills or take action, such as redirecting ventilation, should a fire hazard develop.

Petitioner claims that the Bridger Mine uses pillars measuring 80 feet x 200 feet in the longwall gate roads due to ground control requirements. Petitioner alleges that the size of the pillars limits the space available to store all of the necessary longwall components and the temporary diesel transportation unit.

Petitioner's proposed alternative method is to locate the temporary underground diesel fuel storage area within 1000 feet of the section loading point or the projected loading point during equipment installation or the last designated loading point during equipment removal. Petitioner further proposes to equip the diesel fuel transportation unit with an MSHA-approved automatic fire suppression system that is installed to meet the requirements of 30 CFR 75.1911 and to equip the diesel fuel storage tank with an MSHA-approved automatic fire suppression system that is installed to meet the requirements of 30 CFR 75.1911. In addition, Petitioner states that the temporary diesel fuel storage area will be examined twice each shift by a certified person as required by 30 CFR 75.362 when work is being performed in by the temporary diesel fuel storage area; and that a preshift examination of the diesel fuel storage area will be conducted as required by 30 CFR 75.360. Petitioner also proposes to locate the temporary diesel fuel storage area in an area where the mine roof, mine ribs and mine floor are well rock dusted, the roof is supported to meet the requirements of 30 CFR 75.202, and there are no extraneous combustible materials or ignition sources. Further, Petitioner states that the temporary diesel fuel storage area will be identified at each entrance with signs stating that this is a diesel fuel storage area. Petitioner alleges that the above alternative method will at all times guarantee no less than the same measure of protection afforded by the relevant standard.

MSHA concludes that Petitioner's proposed alternative method, if implemented, would not comply with the intent of 30 CFR 75.1902(c)(2)(i)-(iii) that the underground temporary fuel storage area be within 500 feet of the loading point to ensure miner safety. The alternative method will not at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1902(c)(2)(i)-(iii) because the greater distance of as much as 1000 feet between the loading point and the fuel storage area will not allow miners to quickly address any hazard that may develop during any production shift.

Further, the measures that Petitioner proposes to address hazards associated with fuel transportation and spillage are either already required under MSHA regulations so that they do not represent a net safety benefit or they do not offset the diminished safety associated with locating the fuel storage area farther than the maximum distance of 500 feet from the loading point established by the standard.

Petitioner provided no information on the type of fuel transportation unit, *i.e.*, self-propelled or portable, operating at its Bridger Mine that it proposes to equip with an automatic fire suppression system. However, if the fuel transportation unit is self-propelled, the vehicle is considered heavy-duty equipment and would already be required under 30 CFR 75.1909(h) to have an automatic fire suppression system. If the fuel transportation unit is portable and equipped with electrical components for dispensing fuel that are connected to a source of electrical power, under 30 CFR 75.1906(g), it must be protected by a fire suppression device that meets the requirements of 30 CFR 75.1107-3 through 75.1107-6 and 75.1107-8 through 75.1107-16 and therefore would also be required to have an automatic fire suppression system. Also, portable fuel transportation units that have no potential ignition sources must only be equipped with two portable fire extinguishers as required under 30 CFR 75.1906(h) and thus for those units, the addition of an automatic fire suppression system would not contribute to miner safety. Petitioner's intention to conduct pre-shift and on-shift examinations of the temporary diesel fuel storage area entail examinations that are already required by 30 CFR 75.360 and 75.362. Further, Petitioner's proposal to locate the temporary diesel fuel storage area in an area where the mine roof, mine ribs, and mine floor are well rock dusted, the roof is supported, and no extraneous combustible materials or

ignition sources are in proximity, as well as to provide signs at all entrances to the fuel storage area designating it as such, does not offset the diminution in safety that would result from locating the fuel storage area further from where mine personnel are likely to be working and can quickly address any hazard that develops.

MSHA also notes that Petitioner has not provided detailed specifications concerning the limitations in space imposed by the use of the 80 feet x 200 feet pillars at its Bridger Mine but that even if there is limited space available to locate the temporary underground diesel fuel storage area within the required 500 feet of the loading point, Petitioner has the option to construct a permanent underground diesel fuel storage facility beyond 500 feet from the loading point or to refuel at the surface.

Accordingly, although Petitioner's alternative method may address hazards associated with fuel transportation and spillage, MSHA has determined that the hazards that may result from failure to observe and correct potential fire hazards as a result of the greater distance between the miners and the temporary underground diesel fuel storage area would adversely affect overall mine safety. Consequently, MSHA finds that the Petitioner's proposed alternative method would not afford the same degree of protection at all times that is provided by compliance with the relevant standard.

On the basis of the petition and the findings of MSHA's investigation, Pacific Minerals is denied a modification of the application of 30 CFR 75.1902(c)(2)(i)-(iii) to its Bridger Underground Mine.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., § 811(c), it is ordered that Pacific Minerals' Petition for Modification of the application of 30 CFR 75.1902(c)(2)(i)-(iii) in the Bridger Mine is hereby:

DENIED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, within 30 days. The request for hearing must be filed with the Administrator for Coal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22209.

If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision. A party other than Petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, the Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

Terry L. Bentley
Acting, Deputy Administrator for
Coal Mine Safety and Health